

Chapter 8.02 – Purpose and Definitions

Sections:

- 8.02.010 – Purpose of historic preservation and protection
- 8.02.020 – Definitions

8.02.010 – Purpose of historic preservation and protection.

In order to promote the educational, cultural and general welfare of the citizens of Bloomington and to insure the harmonious and orderly growth and development of the municipality; to maintain established residential neighborhoods in danger of having their distinctiveness destroyed; to enhance property values and attract new residents; to ensure the viability of the traditional downtown area and to enhance tourism within the city; it is deemed essential by the city that qualities relating to its history and a harmonious outward appearance of its structures be preserved. This purpose is advanced through the restoration and preservation of historic areas and buildings, the construction of compatible new buildings where appropriate, and the maintenance and insurance of compatibility in regards to style, form, proportion, texture, and material between historic buildings and those of contemporary design. It is the intention of the city through this title to preserve and protect historic and architecturally worthy buildings, structures, sites, monuments, streetscapes, and neighborhoods which impart a distinct aesthetic quality to the city and serve as visible reminders of its historic heritage.

8.02.020 – Definitions.

The following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed. Words in the present tense include the future tense. The singular number includes the plural, and the plural, the singular. The word “shall” is always mandatory. The word “person” includes a firm, a partnership, or a corporation, as well as an individual. Terms not defined in this section shall have the meanings customarily assigned to them.

“Alteration” means a material or color change in the external architectural features of any structure within a historic district.

Conservation District. Pursuant to Indiana Code 36-7-11-19, the provision that a district may be created which is called a conservation district, the second phase of which is the conversion to historic district status; upon the conclusion of three years, subject to written objection by a majority of property owners in the district. Regulation in a conservation district is less stringent than in an historic district. In a conservation district, a certificate of appropriateness must be granted for:

- (1) The demolition of any building;
- (2) The moving of any building (the moving of a building does not include raising a building for purposes of foundation repair or replacement, provided the building is replaced on its original footprint once the foundation has been repaired or replaced);

- (3) Any new construction of a principal building or accessory building or structure subject to view from a public way.

“Demolition” means the complete or substantial removal of any structure. The term “demolition,” except where it appears in Section 8.08.020(a)(3)(B), 8.08.010(b), and 8.02.02 “Conservation District,” shall also include partial demolition as herein defined.

“Design guidelines” means criteria, locally developed, which identify local design concerns in an effort to assist property owners in maintaining the character of the designated district or buildings during the process of rehabilitation or new construction.

Economic Hardship. For the purposes of this title, “economic hardship” shall be established when a preponderance of evidence establishes that the property in question cannot obtain a reasonable economic return or be put to any economically beneficial use.

“Fair market value” means the most probably price in cash, terms equivalent to cash, or in other precisely revealed terms, for which the appraised property will sell in a competitive market under all conditions requisite to fair sale, which the buyer and seller each acting prudently, knowledgeable, and for self-interest, and assuming that neither is under duress.

“Historic district” means a single building, structure, object, or site or a concentration of buildings, structures, objects, spaces, or sites designated by ordinance adopted under this title. Property not so designated will not be considered an historic district within the terms of this title.

“Historic preservation and protection district ordinance,” hereinafter to be referred to as “this title”.

“Interested party” means one of the following:

- (1) The mayor;
- (2) The common council;
- (3) The city plan commission;
- (4) A neighborhood association, whether incorporated or unincorporated, a majority of whose members are residents of an historic district designated by an ordinance adopted under this title;
- (5) An owner or occupant of a property located in an historic district established by an ordinance adopted under this title;
- (6) Historic Landmarks Foundation of Indiana, Inc., or any of its successors;
- (7) The state historic preservation officer designated under Indiana Code 21-1-19.

“Partial demolition” shall have the meaning assigned to it in Chapter 20.11 of the Bloomington Municipal Code.

“Primary area” means the principal area of historic and/or architectural significance within an historic district.

“Ratings”

- (1) Outstanding: The “O” rating means that the property has sufficient historic or architectural significance that it is already listed, or is eligible for individual listing, in the National Register of Historic Places. Outstanding resources can be of local, state, or national importance.
- (2) Notable: A rating of “N” means that the property does not merit the outstanding rating, but it is still above average in its importance. A notable structure may be eligible for the National Register.
- (3) Contributing: A “C” rating means the property is at least forty years old, but does not meet the criteria for an “O” or “N” rating. Such resources are important to the density or continuity of the area’s historic fabric. Contributing structures can be listed on the National Register only as part of an historic district.
- (4) Non-contributing: Property rated “NC” is not included in an inventory unless it is located within the boundaries of an historic district. Such properties may be less than fifty years old, or they may be older structures that have been altered in such a way that they have lost their historic character, or they may be otherwise incompatible with their historic surroundings. These properties are not eligible for the National Register.

“Reasonable return” means a measure of the economic return that is, or can be, earned on the fair market value of a property, and that demonstrates that the owner has not been deprived of all economically beneficial or productive use of the property.

“Routine maintenance” means work which would not require a building permit, and any change that is not construction, removal or alteration and for which no certificate of appropriateness is required.

“Secondary area” means an area in an historic district that is adjacent to a primary area and which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent primary area.

“Streetscape” means appearance from a public way, the distinguishing characteristics of which are created by the width of the street and sidewalks, their paving materials and color, the design of the street furniture (e.g., street lamps, trash receptacles, benches, etc.), use of plant materials such as trees and shrubs, and the setback, mass, and proportion of those buildings which enclose the street.

“Substantial removal” as used in the definition of “Demolition” means an alteration, pulling down, destruction or removal of a portion of a structure which jeopardizes a structure’s individual eligibility for listing in the National Register of Historic Places, or its status as a contributing structure in a national, state or local register of historical places, which shall include, but not be limited to, the removal of a defining architectural feature or element which defines or contributes to the historic character of the structure or the removal of twenty-five percent (25%) of the structure, including its roof, if the part which is removed is on a façade which faces a public thoroughfare.

“Visual compatibility” means those elements of design that meet the standards set out in Section 8.08.040 of this title.

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Chapter 8.08 – Historic Districts and Standards

Sections:

- 8.08.010 – Establishment of historic districts and conservation districts.
- 8.08.015 – Interim protection.
- 8.08.016 – Limited effect of interim protection or historic designation in certain Situations.
- 8.08.020 – Certificates of appropriateness.
- 8.08.025 – Staff approvals.
- 8.08.030 – Maintenance standards.
- 8.08.040 – Development standards.
- 8.08.050 – Preservation of historical and architectural character upon alteration or relocation mandated.
- 8.08.060 – Survey adopted.

8.08.010 – Establishment of historic districts and conservation districts.

- (a) Initiating an Historic District Recommendation. All recommendations for establishment of an historic district shall be in the form of a written report and must be based on the criteria outlined in this title. A recommendation for establishing an historic district may be initiated from either of the following two sources:
 - (1) Based on its survey, the commission may draw and submit historic district maps for common council approval.
 - (2) Owners of property in fee simple wishing to establish an historic district which includes their property may petition the commission to consider drawing and submitting a map of such a district to the common council for its approval. The commission may establish in its rules criteria to be met before it considers a petition. The commission shall determine its recommendation within ninety days of receipt of a petition.
- (b) The commission may recommend, and the council may provide that the establishment of an historic district shall occur in two phases. Under the first phase, to be called a conservation district, a certificate of appropriateness is required for the following activities: the demolition of any building; the moving of any building; and any new construction of a principal building or accessory building, or structure subject to view from public way.
 - (1) The first phase shall last three (3) years;
 - (2) At the end of the first phase, upon the expiration of the three (3) year period, the conservation district shall become a historic district, subject to subsection three (3); and

- (3) The conservation district may continue past the three (3) year term, thereby avoiding the designation of a historic district, if a majority of property owners in the district object to the Commission, in writing, to the elevation to a historic district. Said objections must be received by the Commission not earlier than one hundred and eight (180) days or later than sixty (60) days before the third anniversary of the adoption of the conservation district.
- (c) Commission Preparation of Historic District Maps. In order to establish an historic district, the commission shall first prepare a map describing the district in accordance with the following:
- (1) The map shall be based on a survey conducted or adopted by the commission which identifies historic buildings, structures, and places located within the city.
 - (2) A district may be limited to the boundaries of a property containing a single building, structure, or site.
 - (3) The map may divide the district into primary and secondary areas as follows:
 - (A) Primary area: The principal area of historic and architectural significance;
 - (B) Secondary area: An area adjacent to a primary area which has a visual relationship to the primary area and could affect the preservation of the primary area. The purpose of designating a secondary area is to assure its compatibility and harmony with an adjacent primary area.
 - (4) The commission shall classify and designate all buildings and structures within each proposed district as historic or non-historic. Historic buildings or sites may include those buildings or sites that meet the architecturally worthy criteria set out in subsection (e)(2) of this section. The commission shall further classify and designate all buildings and structures within a proposed historic district as follows:
 - (A) Historic buildings and structures shall be further classified as Outstanding, Notable, or Contributing, as established by the Indiana State Division of Historic Preservation and Archaeology and the local survey.
 - (B) All non-historic buildings shall be classified as non-contributing.

- (5) A written report shall accompany all recommendations for designation before the common council, in accordance with the criteria for designation, stating the case for accepting the district.
- (d) Common Council Approval of Maps of Historic Districts. Before an historic district or conservation district is established and the building classification takes effect, the map setting forth the district's boundaries and building classifications must be submitted to, and approved in an ordinance by the common council. The procedure for doing so shall be as follows:
 - (1) The commission must take official action deciding whether or not to submit a map to the common council for approval.
 - (2) Prior to taking action at a meeting, the commission shall hold a public hearing to allow public comment. A public hearing may be held separately or in conjunction with the meeting where action on the district is to occur.
 - (3) A public hearing held by the commission for the purpose of allowing comment on a proposed historic district designation shall be preceded by public notice as set forth in Indiana Code 5-3-1-1 et seq. In addition, the commission shall adopt rules that ensure that owners of all property within the proposed historic district, and all adjacent property owners, as determined by the most recent estate tax lists, shall receive written notice of the hearing on the proposed historic district.
 - (4) A written report shall accompany the map submitted to the common council validating the proposed district by addressing the criteria listed in this section.
- (e) Historic District Criteria. An historic district shall include a building, groups of buildings, structure(s), site(s), monument(s), streetscape(s), or neighborhood(s) which meet at least once of the following criteria:
 - (1) Historic:
 - (A) Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the city, state, or nation; or is associated with a person who played a significant role in local, state, or national history; or
 - (B) Is the site of an historic event; or
 - (C) Exemplifies the cultural, political, economic, social, or historic heritage of the community.

(2) Architecturally worthy:

- (A) Embodies distinguishing characteristics of an architectural or engineering type; or
 - (B) Is the work of a designer whose individual work has significantly influenced the development of the community; or
 - (C) Is the work of a designer of such prominence that such work gains its value from the designer's reputation; or
 - (D) Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation; or
 - (E) Contains any architectural style, detail, or other element in danger of being lost; or
 - (F) Owing to its unique location or physical characteristics, represents an established and familiar visual feature of a neighborhood or the city; or
 - (G) Exemplifies the built environment in an era of history characterized by a distinctive architectural style.
- (f) An ordinance approving the establishment of an historic district, may exclude changes in paint colors from the activities requiring the issuance of a certificate of appropriateness under Section 8.08.020 before a permit may be issued or work begun.

8.08.015 – Interim Protection.

- (a) When submitting a map to the city council under Section 8.08.010 of this title, the commission may declare one or more buildings or structures that are classified and designated as historic on the map to be under interim protection.
- (b) Not more than two working days after declaring a building, structure, or site under interim protection under this section, the commission shall, by personal delivery or first class mail, provide the owner or occupant of the building structure or site with a written notice of the declaration. The written notice must:
 - (1) Cite the authority of the commission to put the building, structure or site under interim protection under this section;
 - (2) Explain the effect of putting the building, structure, or site under interim protection; and
 - (3) Indicate that interim protection is temporary.

- (c) A building, structure or site put under interim protection under subsection (a) remains under interim protection until the map is:
 - (1) Submitted to; and
 - (2) Approved in an ordinance or rejected by the common council of the city.
- (d) While a building, structure, or site is under interim protection under this section:
 - (1) The building, structure, or site may not be demolished or moved; and
 - (2) The exterior appearance of the building, structure, or site may not be conspicuously changed by:
 - (A) Addition;
 - (B) Reconstruction; or
 - (C) Alteration.
- (e) The commission may approve a certificate of appropriateness at any time during the interim protection, provided the proposed change meets the criteria for considering effect of actions on historic sites in Section 8.08.020 and any proposed preservation guidelines prepared for the building, structure, or site, but the certificate of appropriateness shall have no effect, and no action may be taken pursuant thereto, unless the map including the building, structure or site is approved by the common council of the city.

8.08.016 – Limited effect of interim protection of historic designation in certain situations.

Placing a property under interim protection pursuant to Section 8.08.015, or historic designation of a property pursuant to this chapter, which includes designation as a conservation district, shall not result in revocation of, or prevent issuance of, any permit or certificate of zoning compliance authorizing demolition of a property in the following situations; provided, however, when the waiting period was triggered by an application for partial, rather than complete, demolition, the limitations on this provision that are set forth in Title 20 of the Bloomington Municipal code, including but not limited to Sections 20.09.040(b); 20.09.120(d)(6)(B) and 20.09.230(b)(4), shall obtain:

- (a) During any one-year period after the termination of a demolition waiting period pursuant to Section 20.09.230 of the Bloomington Municipal Code; or
- (b) During any one-year period following a final vote of the common council not to adopt an ordinance designating a property as historic, where the council was acting during a demolition waiting period pursuant to Section 20.09.230 of the Bloomington Municipal Code or was acting after the expiration of such a waiting

period but as a result of an HPC recommendation that included interim protection and was made during a demolition waiting period under that section.

8.08.020 – Certificates of appropriateness.

- (a) Certificates of appropriateness required. A certificate of appropriateness must be issued by the commission before a permit is issued for, or work is begun on, any of the following:
 - (1) Within all areas of an historic district:
 - (A) The demolition of any building;
 - (B) The moving of any building;
 - (C) A conspicuous change in the exterior appearance of any historic building or any part of or appurtenance to such a building, including walls, fences, light fixtures, steps, paving, and signs by additions, reconstruction, alteration, or maintenance involving exterior color change if cited by individual ordinance; or
 - (D) Any new construction of a principal building or accessory building or structure subject to view from a public way.
 - (2) Within a primary area of an historic district:
 - (A) A change in walls and fences, or the construction of walls and fences along public ways;
 - (B) A conspicuous change in the exterior appearance of nonhistoric buildings subject to view from a public way by additions, reconstruction, alteration and/or maintenance involving exterior color change.
 - (3) Within a conservation district:
 - (A) The moving of any building;
 - (B) The demolition of any building; or
 - (C) Any new construction of a principal building or accessory building or structure subject to view from a public way.
- (b) Application for Certificates of Appropriateness. An application for certificate of appropriateness shall be made in the office of the commission or its designee on forms provided by that office. All applications shall be subject to the rules and

requirements established by the commission as permitted by Indiana Code 36-7-11-11.

- (c) **Approval or Denial of Certificate of Appropriateness.** The commission may approve or deny certificates of appropriateness for any actions covered by this title. If an application for a certificate of appropriateness is approved by the commission, or is not acted on by the commission within thirty days after it is filed, a certificate of appropriateness shall be issued. The commission may grant an extension of the thirty-day limit if the applicant agrees to it. The commission must report its findings and the reasons for its decisions in written form, and supply the applicant with a copy of its report. A copy of the certificate of appropriateness must be submitted with the application for a building or demolition permit; no building or demolition permit shall be issued unless a copy of the certificate of appropriateness is provided by the applicant with the application. In accordance with Indiana Code 36-7-11-12, the commission may advise and make recommendations to the applicant before acting on an application for a certificate of appropriateness.
- (d) **Right to Commission Review.** In any case where an applicant does not receive a certificate of appropriateness or otherwise feels aggrieved by an action of the commission, the applicant shall have the right to a rehearing by the commission upon submission of additional evidence or new information.
- (e) **Criteria for Considering Effect of Actions on Historic Buildings.** The commission, in considering the appropriateness of any reconstruction, alteration, maintenance, or moving of an historic building or structure, or any part of or appurtenance to such building or structure, including walls, fences, light fixtures, steps, paving, and signs shall require that such work be done in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance. In considering historic and architectural character, the commission shall consider, among other things, the following:
 - (1) Purpose of this title;
 - (2) Historical and architectural value and significance of the building, structure, or appurtenance;
 - (3) Compatibility and significance of additions, alterations, details, materials, or other non-original elements which may be of a different style and construction date than the original;
 - (4) The texture, material, color, style, and detailing of the building, structure or appurtenance;
 - (5) The continued preservation and protection of original or otherwise significant structure, material, and ornamentation;

- (6) The relationship of buildings, structures, appurtenances, or architectural features similar to ones within the same historic district, including for primary areas, visual compatibility as defined in Section 8.08.040(b); and
- (7) The position of the building or structure in relation to the street, public right-of-way and to other buildings and structures.

8.08.025 – Staff approvals.

- (a) The commission may authorize the staff of the commission, on behalf of the commission, to grant or deny an application for a certificate of appropriateness.
- (b) The commission must specify the types of applications for minor classifications of work that the staff of the commission is authorized to grant or deny. The staff shall not be authorized to grant or deny an application for a certificate of appropriateness for the following:
 - (1) The demolition of any building, structure, or site.
 - (2) The moving of any building or site.
 - (3) The construction of an addition to a building or structure.
 - (4) The construction of a new building or structure.

8.08.030 – Maintenance standards.

- (a) Conformance to Statutory Requirements of Buildings. Historic buildings, structures, and sites shall be maintained to meet the applicable requirements established under state statute for buildings generally so as to prevent the loss of historic material and the deterioration of important character defining details and features. Historic buildings shall be maintained to meet all applicable requirements established under statute and ordinance for buildings generally, including but not limited to Title 16 of the Bloomington Municipal Code where applicable.
- (b) Ordinary Repairs and Maintenance. Nothing in this section shall be construed so as to prevent the ordinary repairs and maintenance of any building, structure, or site, provided that such repairs or maintenance do not result in a conspicuous change in the design, form, proportion, mass, configuration, building material, texture, color, location, or external visual appearance of any structure, or part thereof.
- (c) A certificate of appropriateness is not required for the following:
 - (1) Ordinary repairs and maintenance as defined in subsection (b) of this section;

- (2) Repairs and maintenance designated by the commission under its rules;
- (3) Special exceptions granted by the commission.

8.08.040 – Development standards.

- (a) For new construction, contemporary design, and nonhistoric buildings: The purpose of this section is to preserve and encourage the integrity of historic buildings, structures, sites, monuments, streetscapes, and neighborhoods and to ensure their compatibility with any new work. The construction of a new building or structure, and the moving, reconstruction, alteration, color change, major maintenance, or repair conspicuously affecting the external appearance of any nonhistoric building, structure, or appurtenance within the primary area must be generally of a design, form, proportion, mass configuration, building material, texture, color, and location on a lot compatible with other buildings in the historic district and with places to which it is visually related.
- (b) Criteria for considering visual compatibility within historic primary areas or conservation districts: Within the primary area of an historic district, new buildings and structures, as well as buildings, structures, and appurtenances that are moved, reconstructed, materially altered, repaired, or changed in color, must be visually compatible with buildings, squares and places to which they are visually related generally in terms of the following visual compatibility factors:
 - (1) Height: The height of proposed buildings must be visually compatible with adjacent buildings.
 - (2) Proportion of building's front façade: The relationship of the width of a building to the height of the front elevation must be visually compatible with buildings, squares and places to which it is visually related.
 - (3) Proportion of openings within the facility: The relationship of width of the windows to the height of windows in a building must be visually compatible with buildings, squares, and places to which it is visually related.
 - (4) Relationship of solids to voids in front facades: The relationship of solids to voids in the front façade of a building must be visually compatible with buildings, squares and places to which it is visually related.
 - (5) Rhythm of spacing of buildings on streets: The relationship of a building to the open space between it and adjoining buildings must be visually compatible to the buildings, squares, and places to which it is visually related.
 - (6) Rhythm of entrances of an porch projections: The relationship of entrances and porch projections of a building to sidewalks must be

visually compatible with the buildings, squares and places to which it is visually related.

- (7) Relationship of materials, texture, and color: The relationship of the materials, texture, and color of the façade of a building must be visually compatible with the predominant materials used in the buildings to which it is visually related.
- (8) Roof shapes: The roof shape of a building must be visually compatible with the buildings to which it is visually related.
- (9) Walls of continuity: Appurtenances of a building, such as walls, wrought iron fences, evergreen landscape masses, and building facades, must form cohesive walls of enclosure along the street, if necessary to ensure visual compatibility of the building to the buildings, squares and places to which it is visually related.
- (10) Scale of the building: The size of a building, and the building mass of a building in relation to open spaces, windows, door openings, porches, and balconies must be visually compatible with the buildings, squares and places to which it is visually related.
- (11) Directional expression of front elevation: A building must be visually compatible with the buildings, squares, and places to which it is visually related in its directional character, including vertical character, horizontal character, or nondirectional character.

8.08.050 – Preservation of historical and architectural character upon alteration or relocation mandated.

- (a) An historical building or structure or any part of or appurtenance to such a building or structure, including stone walls, fences, light fixtures, steps, paving, and signs may be moved, reconstructed, altered, or maintained only in a manner that will preserve the historical and architectural character of the building, structure, or appurtenance.
- (b) An historic building may be relocated to another site only if it is shown that preservation on its current site is inconsistent with subsection (a) of this section.

8.08.060 – Survey adopted.

The commission's official survey, entitled Indiana Historic Sites and Structures Survey: 2001 City of Bloomington Interim Report, adopted by the commission on October 17, 2002, as the same may be hereafter amended or replaced, is hereby adopted and made a part of this title. The survey identifies properties that may be proposed for historic designation under this chapter, and further serves as the basis for mandatory delay of proposed demolition as set forth in Title 20

“Unified Development Ordinance” of the Bloomington Municipal Code. Two copies of said survey are available for inspection and copying in the office of the city clerk and in the office of the housing and neighborhood development department, city of Bloomington.

8.08.060 – Removing the Designation of a Historic District.

This Section provides the exclusive method for removing the designation of a historic district.

- (a) The owner or owners of a building, structure, or site designated as a single sit historic district may sign and file a petition with the City Common Council requesting removal of the designation of the building, structure, or site as a historic district. In the case of a historic district containing two or more parcels, at least sixty percent of the owners of the real property of the historic district may sign and file a petition with the City Common Council requesting removal of the designation of a historic district.
- (b) The City Common Council shall submit a petition filed under subsection (a) to the Commission. The Commission shall conduct a public hearing on the petition not later than sixty days after receiving the petition. The Commission shall provide notice of the hearing:
 - (1) By publication under Indiana Code 5-3-1-2(b);
 - (2) In the case of a historic district comprised of real property owned by fewer than fifty property owners, by certified mail, at least ten days before the hearing, to each owner of real estate within the historic district; and
 - (3) In the case of a single building, structure, or site designated as a historic district, by certified mail, at least ten days before the hearing, to each owner of the real estate abutting the building, structure, or site designated as a historic district that is the subject of the petition.
- (c) The Commission shall make the following findings after the public hearing:
 - (1) Whether a building, structure, or site within the historic district continues to meet the criteria for inclusion in a historic district as set forth in this ordinance. The determination must state specifically the criteria that are applicable to the buildings, structures, or sites within the district.
 - (2) Whether failure to remove the designation of the historic district would deny an owner of a building, structure, or site within the historic district reasonable use of the owner’s property or prevent reasonable economic return. Evidence provided by the petitioner may include information on:
 - (A) Costs to comply with regulations;

- (B) Income generation;
 - (C) Availability of contractors to perform work;
 - (D) Real estate values;
 - (E) Assessed values and taxes;
 - (F) Revenue projections;
 - (G) Current level of return;
 - (H) Operating expenses;
 - (I) Vacancy rates;
 - (J) Financing issues;
 - (K) Efforts to explore alternative uses of the property;
 - (L) Availability of economic incentives; and
 - (M) Recent efforts to sell or rent the property.
- (3) Where removal of the designation of a historic district would have an adverse economic impact on the owners of real estate abutting the historic district, based on testimony and evidence provided by the owners of the real estate and licensed real estate appraisers or brokers.
- (4) Whether failure to remove the designation of the historic district would have an adverse impact on the unit's historic resources, and specifically whether it would result in the loss of a building, structure, or site classified as historic by the Commission's survey.
- (d) Not later than ten days after the Commission's public hearing, the Commission shall submit to the City Common Council the following:
- (1) It's findings on the petition; and
 - (2) A recommendation to grant or deny the petition.
- (e) Not later than forty-five days after receiving the Commission's findings the City Common Council shall do one of the following:
- (1) Deny the petition;
 - (2) Grant the petition by adopting an ordinance that removes the designation of the historic district by:
 - (A) A majority vote, if the recommendation of the Commission is to grant the petition; or
 - (B) A two-thirds vote, if the recommendation of the Commission is to deny the petition.

The City Common Council shall record an ordinance adopted under subdivision (2) with the County Recorder not later than ten days after the City Common Council adopts the ordinance. The historic district

designation is considered removed on the date the ordinance is recorded with the County Recorder.

- (f) If the City Common Council does not grant or deny the petition within forty-five days after receiving the Commission's findings:
 - (1) The petition is considered granted or denied in accordance with the recommendation of the Commission; and
 - (2) If the petition is considered granted, the City Common Council shall, not later than fifty-five days after receiving the Commission findings:
 - (A) Adopt an ordinance that removes the designation of the historic district; and
 - (B) Record the ordinance with the County Recorder.

The historic district designation is considered removed on the date the ordinance is recorded with the County Recorder.

Chapter 8.12 – Demolition and Public Safety

Section:

8.12.010 – Generally.

8.12.020 – Public safety.

8.12.010 – Generally.

- (a) **Purpose.** The purpose of this section is to preserve historic buildings and structures that are important to the education, culture, traditions, and economic value of the community by affording the city, preservation organizations, and interested persons the opportunity to acquire or arrange for the preservation of these buildings.
- (b) **Certificate of Appropriateness Required.** A certificate of appropriateness must be issued by the commission before a demolition permit is issued by other agencies of the city and work is begun on the demolition of any building or structure in any area of an historic district or conservation district. Pursuant to Section 8.02.020 of this title, demolition of a building or structure in a conservation district excludes partial demolition as defined herein.
- (c) **Criteria for the commission to consider in the case of a proposed demolition includes the following:**
 - (1) Effect of the demolition on the character of the historic district;
 - (2) State of deterioration, disrepair, and structural stability of the structure. The condition of the building resulting from neglect shall not be considered grounds for demolition;
 - (3) Balance of the public interest in preserving the structure or the integrity of the district with the interest of the owner of the building or structure in the use and utilization of the property; and
 - (4) Possible alternatives to demolition.
- (d) **Factors for Allowing Demolition without Certificate of Appropriateness.** If the commission denies the issuance of a certificate of appropriateness for the demolition of a building or structure, a demolition permit may be issued by other agencies and a building may be demolished, but only after the property owner has established all of the following:
 - (1) The property owner must demonstrate to the commission that an historic building or structure is incapable of earning a reasonable return on its value.

- (A) The property owner shall file with the administrator documented evidence that appraisal of the property's fair market value by a licensed real estate appraiser has occurred.
- (2) Notice of the proposed demolition must be given for a period fixed by the commission, based on the commission classification on the approved map, but not less than sixty days nor more than one year. Notice must be posted on the premises of the building or structure proposed for demolition in a location clearly visible from the street. In addition, notice must be published in a newspaper of general local circulation at least three times before demolition, with the first publication not more than fifteen days after the application for a permit to demolish is filed, and the final publication at least fifteen days before the date of the permit issuance.
- (A) The period of time that notice of the proposed demolition must be given is herein fixed by the Commission and subsequently codified as follows:
- | | |
|------------------|-----------|
| Outstanding | 12 months |
| Notable | 12 months |
| Contributing | 6 months |
| Non-Contributing | 3 months |
- (B) The commission may approve a certificate of appropriateness at any time during the notice period described in the preceding paragraph. If the certificate is approved, a demolition permit shall be issued without further delay, and demolition may proceed.

8.12.020 – Public Safety.

Nothing in this section shall be construed to prevent the construction, reconstruction, alteration, or demolition of a structure, building, or any part thereof within an historic district when so ordered by an agency of government having jurisdiction thereof provided that the following actions occur first:

- (a) The agency having jurisdiction shall determine that a structure or building or any part thereof is immediately hazardous or dangerous to the health and safety of persons or to property;
- (b) The agency issuing such an order shall notify the commission administrator of intent to issue a demolition permit order; the commission administrator in turn shall notify the commission;

- (c) If demolition is ordered, the agency issuing such an order shall make every reasonable effort to secure the property or otherwise delay demolition until the commission can act as designated in this section. Demolition so ordered may occur prior to commission action only when an immediate hazard or danger to the health and safety of persons or property exists and no reasonable steps can be taken to afford protection to persons or properly affected;
- (d) The commission, on its own initiative, may file a petition with the public safety and housing ordinance to require correction of defects or repairs to any structure covered by this section so that such structure be preserved and protected in consonance with this chapter and the public safety and housing ordinance. This section requires that the owner make necessary structural repairs to remain in compliance with minimum building standards and the intent of this chapter. If the owner is unwilling to repair then the city may repair the building and place a lien for said repairs upon the property;
- (e) The city has determined it will not undertake such repairs that will remove the threat to health and safety of persons or property and place a lien for said repairs on the property.

8.16.010 – Conflicts with zoning districts.

Zoning districts lying within the boundaries of the historic district are subject to regulations for both the zoning district and the historic district. If there is a conflict between the requirements of the zoning district and the requirements of the historic district, the more restrictive requirements apply.

8.16.020 – Enforcement, penalties, and judicial review.

- (a) Enforcement. This section shall be enforced using personnel and policies designated by the director of housing and neighborhood development.
- (b) Penalties and Remedies.
 - (1) Any person, whether as principal, agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who violates any provision of this title shall pay a fine, as follows, for each offense. Each day any violation of this title continues without correction shall be a separate offense for purposes of the penalties and remedies specified in this Chapter. Correction shall include but not be limited to:
 - (A) Cessation of an unlawful practice;
 - (B) Removal of a building, structure, or other improvement;
 - (C) Faithful or otherwise-approved restoration or replacement of a building, structure, site or other feature; and/or
 - (D) Other remedy acceptable to the city.
 - (2) Any person, whether as principal agent, owner, lessee, tenant, contractor, builder, architect, engineer, or otherwise, who demolishes or removes a structure subject to regulation under this Title shall pay a fine of two thousand five hundred dollars for the first offense, five thousand dollars for the second offense and seven thousand five hundred dollars for the third offense, in addition to any and all other remedies provide for by law. Correction of the demolition or removal of a structure subjection to regulation under this Title shall not occur until an acceptable application for a certificate of appropriateness has been filed with the Historic Preservation Commission.
 - (3) Each violation of this chapter, except for the violation described in Section 6.16.020(b)(2), shall be subject to a fine of not more than two thousand five hundred dollars for the first offense, and not more than seven thousand five hundred dollars for the second and subsequent offenses, in addition to any and all other remedies provided for by law.

- (4) A second or subsequent offense means a violation of any provision of this title within three years of the first violation of any provision of this title.
 - (5) The erection, construction, enlargement, alteration, repair, demolition, color change, moving, or maintenance of any building, structure, or appurtenance which is begun, continued, or maintained contrary to any provision of this title is declared to be in violation of this title and unlawful. The city may institute a suit for injunction in circuit court to restrain any person or governmental unit from violating a provision of this title or an ordinance adopted under this title and to cause such violation to be prevented, abated, corrected and/or removed or any other remedy available in law or equity. Such action may also be instituted by any interested party who is adversely affected by the violation of any provision of this title.
 - (6) If a property which is subject to regulation under Section 20.09.30 of City's Municipal Code is demolished in violation of said Section, the penalties provided for in Section 20.10.020(f) of the City's Municipal Code may also apply.
- (c) Every interested party has a private right of action to enforce and prevent violation of a provision of this title or an ordinance adopted under this title, and with respect to any building, structure, or site within a historic or conservation district, has the right to restrain, enjoin, or enforce by restraining order or injunction, temporarily or permanently, any person from violating a provision of this title or an ordinance adopted under this title.
- (1) The interested party does not have to allege or prove irreparable harm or injury to any person or property to obtain relief under this title;
 - (2) The interested party bringing an action under this title is not liable to any person for damages resulting from bringing or prosecuting the action unless the action was brought without good faith or without a reasonable belief that a provision of this title, or an ordinance adopted under this title, had been, or was about to be violated or breached.
 - (3) The interested party does not have to post a bond unless the court, after a hearing, determines that a bond should be required in the interest of justice.
 - (4) An interested party who obtains a favorable judgment in an action under this title may recover reasonable attorney fees and court costs from the person against whom judgment was rendered;

- (5) An action arising under this title must be brought in the circuit court of Monroe County. No change of venue from the county shall be allowed in this action;
- (6) The remedies provided in this title are in addition to other remedies that may be available at law or in equity.
- (d) Judicial review. In accordance with Indiana Code 36-7-11-4(h), a final decision of the commission is subject to judicial review under Indiana Code 36-7-4 as if it were a final decision of a Board of Zoning Appeals.

8.16.030 – Recording the fact of historic district designation.

The boundaries of any historic district or conservation district shall be available in the office of the city of Bloomington planning department.

8.16.040 – Listing of designated historic districts.

Preexisting historic districts: The following historic districts established under previous ordinances shall be subject to this title but in all other respects remain unchanged. All areas within existing districts shall be considered primary areas as defined in this title.

Chapter 8.20 – List of Designated Historic Districts

The Old Library	202 East Sixth Street
Elias Abel House	317 North Fairview Street
Seminary Park	West Second Street between and College Avenue and Walnut Street
Paris Dunning House	608 West Third Street
Cochran House	405 North Rogers Street
Morgan House	532 North Walnut Street
The Depot	7th Street and Morton Street
Wylie House	307 East Second Street
Princess Theater	204 North Walnut Street
J.L. Nichols House and Studio	820 North College Avenue
Showers Bridwell House	409 North Washington Street
Farmer House	529 North Washington Street
Second Baptist Church	321 North Rogers Street
Lamp Posts	Hawthorne Street
Fieldstone Sidewalk	East side of Dunn Street between 3rd Street and 4th Street
Showers-Teter-Barrett House	508 North Washington Street
Showers-Smith Matthews-House	514 North Washington Street
Showers-Freese House	522 North Washington Street
George Henley House	512 East Eighth Street

George Wylie House	321 North Indiana Avenue
Hicks-Sperry House	625 North Walnut Street
Henley House	322 West Second Street
Elisha Ballentine House	315 East Seventh Street
Washington Street Apartments	316 North Washington Street
Tri-Delta House	812 East Third Street
Hudgins-Fagan House	323 East Sixth Street
Hudgins House	303 East Sixth Street
Parker Hawkins House	514 West Kirkwood Avenue
Prospect Hill Historic District	(28 Properties)
Smallwood Pike Buildings	414-424 North Morton Street
The property at 209 South Dunn Street	209 South Dunn Street
The building at 514 North Fess Avenue	514 North Fess Avenue
The building located at 324 East Second Street	324 East Second Street
Buskirk-Chumley Theater	112-114 East Kirkwood Avenue
Breaking Away House	756 South Lincoln Street
Parks Home	821 West Sixth Street
Fairview Historic District	10 properties
Victoria Towers	221 East Kirkwood Avenue
The Von Lee Theater Building	517 East Kirkwood Avenue
Brummett House	312 South Euclid Avenue
The duplex located at 315-317 North Fess Avenue	315-317 North Fess Avenue
McDoel Conservation District	271 properties
Limestone Hitching Posts	416 East Fourth Street and
	615 West Sixth Street
The Garton Farmstead	2820—2920 East 10th Street
The Fleener Building	112 East 3rd Street
The brick streets in University Courts	The brick streets located in the public right-of-way bounded by 10th Street on the north, 7th Street on the south, Indiana Avenue on the west, and Woodlawn Avenue on the east, including Fess Avenue, Park Avenue, 8th Street and 9th Street
The Home Laundry Building	300 East 3rd Street
Apartment Row	314—316, 318—320 and 322—324 North College Avenue
1115 North College Avenue	1115 North College Avenue
2102 West Vernal Pike	2102 West Vernal Pike
430 North Washington, 209-211 East 8th Street	A part of Out Lot Number 31
Prospect Hill Conservation District	355 properties
The Elks Lodge #446	400 North Walnut Street
Garden Hill Conservation District	(97 properties)

700 North Walnut Street	700 North Walnut Street
Elm Heights Historic District	(263 properties)

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